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7 *Attorneys for Complainant*

9 **BEFORE THE**  
10 **BOARD OF PHARMACY**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4210

13 **KATHY HER**  
6661 Demafet Drive  
14 Sacramento, CA 95822

**A C C U S A T I O N**

15 **Pharmacy Technician Registration No. TCH 58320**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 22 2. On or about September 1, 2004, the Board of Pharmacy issued Pharmacy Technician  
23 Registration Number TCH 58320 to Kathy Her (Respondent). The Pharmacy Technician  
24 Registration was in full force and effect at all times relevant to the charges brought herein and  
25 will expire on March 31, 2012, unless renewed.

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4. Section 4300 of the Code authorizes the Board to suspend, revoke, or otherwise discipline any license issued to a holder.

## STATUTORY PROVISIONS

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

(1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

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1 **COST RECOVERY**

2 7. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licentiate found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Criminal Conviction)**

8 8. Respondent is subject to disciplinary action under section 4301, subsection (f) in that  
9 on or about September 1, 2011, in the case of *People of the State of California vs. Kathy Her*,  
10 Case No. 10F07862 (Sacramento County Superior Court, 2010), Respondent was convicted on  
11 her plea of *nolo contendere* to violating Penal Code section 273a(a) (child endangerment), a  
12 misdemeanor. Respondent was placed on four (4) years of formal probation, sentenced to 90  
13 days in jail and ordered to attend a 52 week parenting class and professional counseling.

14 The circumstances of the case are that on or about November 29, 2010, Sacramento Police  
15 Department officers responded to a domestic disturbance call. Upon arrival, Respondent stated to  
16 officers that she and her husband had gotten into an argument. Respondent had then gone to a  
17 closet and removed a gun that was located in a box in the closet. Her husband grabbed for the  
18 gun and was shot in the stomach. Respondent's minor children were in the home at the time of  
19 the incident and her 6 month old baby was in the room where the gun was fired.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct)**

22 9. Respondent is subject to disciplinary action under section 4301 for unprofessional  
23 conduct as further described in paragraph 8, above.

24 **PRAAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
26 and that following the hearing, the Board of Pharmacy issue a decision:

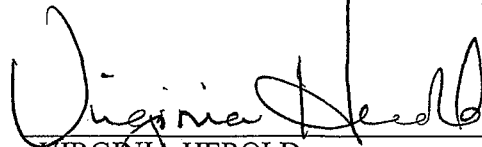
27 1. Revoking or suspending Pharmacy Technician Registration Number TCH 58320,  
28 issued to Kathy Her.;

1           2.     Ordering Kathy Her to pay the Board of Pharmacy the reasonable costs of the  
2 investigation and enforcement of this case, pursuant to Business and Professions Code section  
3 125.3;

4           3.     Taking such other and further action as deemed necessary and proper.

6           DATED: \_\_\_\_\_

2/22/12



VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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